



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 29, 1994

Ms. Suzanne E. Giesecke
Assistant General Counsel
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

OR94-835

Dear Ms. Giesecke:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27913.

The Texas Department of Agriculture received an open records request for the inspector's report for Complaint Number 04-94-0038. You contend the report may be withheld from the public pursuant to the Open Records Act, section 552.103(a) of the Government Code. Section 552.103(a) applies to information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). In this instance you have made the requisite showing that the requested information relates to reasonably

anticipated litigation for purposes of section 552.103(a). The requested records may therefore be withheld.¹

We note that the file contains some information that has previously been seen by the respondent in the potential litigation. We have marked this information, which must be released. If the opposing parties in the anticipated litigation have seen or had access to any of the other information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349, 320 (1982). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/RHS/rho

Ref.: ID# 27913

Enclosures: Marked documents

cc: Mr. Mike Peeples
Agricultural Consultant
2763 Glenway Place
Greenville, Mississippi 38701
(w/o enclosures)

¹We note that if the department determines that the anticipated litigation will not involve one of the respondents, the information pertaining to that respondent may not be withheld pursuant to section 552.103(a).